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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3399 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

ANANDJI KALYNJI AKHIL BHARTIYA JAIN SWETAMBER

Versus

COMMISSIONER OF POLICE

Appearance:

DR MUKUL SINHA for Petitioner
MR PK SHUKLA, ld. AGP for Respondents
MR PK CHAUHAN, PSI of Ellis Bridge Police Station is
present.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 02/05/2000

ORAL JUDGEMENT

The petitioner is a registered Trade Union in the
name of Sheth Anandji Kalyanji Akhil Bhartiya Jain
Swetamber Murtipujak Karmachari Sangh, at 104 Maharana

Pratap Centre, Opp. Ellis Bridge Post Office, Ahmedabad. This Union had applied for permission to the respondent, i.e. the Commissioner of Police, Ahmedabad City, for holding a peaceful Dharna in protest against the reported sexual harassment of wife of a temporary employee by the Junagadh Branch Manager of its employer, i.e. Anandji Kalyanji Trust. The woman who was sexually harassed has sent a letter to the petitioner Union alleging that she was required to do household works at the residence of the Branch Manager and the Manager had started demanding immoral relations with the said woman in lieu of the regularisation of her husband in the employment. She then filed a police complaint against the Manager who is alleged to have assaulted the husband of the woman in retaliation and it is alleged that the couple had to run away to their native place where the husband died on 1.12.1999 on account of alleged assault and the trauma. The complaint filed by the concerned woman Smt. Kapilaben was inquired into by the Union at Junagadh at its own level and at the native place of the couple. The petitioner Union then requested the Management to institute an inquiry against the Manager after placing him under suspension. The Management did not respond favourably to the Union's request. The petitioner Union, therefore, decided to hold a Dharna on 8.3.2000 and requested the Commissioner of Police, City of Ahmedabad, to grant necessary permission. Such permission was denied on 7.3.2000. When the members of the Union started assembling for the peaceful Dharna 8.3.2000, the Police Sub Inspector of Ellis Bridge Police Station along with several other police personnel came to the spot and it is alleged that they started abusing the members of the Union. It is also alleged that he had threatened to arrest the members of the petitioner Union warning them that no permission had been granted to them for holding any demonstration and in future also, no such permission is going to be granted.

2. The petitioner Union seeks to enforce its rights under Article 19 of the Constitution of India to assemble peacefully and to demonstrate and express their protest against the action of the Branch Manager and Management. It has also been alleged that the respondents have openly sided with the management to suppress the democratic and constitutional demand. Reliance has also been placed on the observations made by the Supreme Court in the case of Vishaka and ors. reported in (1997) 6 SCC 241. It is also submitted that yet another application on 5th April 2000 was moved seeking permission for Dharna with the use of Loud Speaker for holding such Dharna on 5th May 2000.

3. With the allegations as aforesaid, the present petition was filed before this Court on 15th April 2000. Rule was issued on 24th April 2000 making it returnable on 28th April 2000. On 28th April 2000, time was granted to the learned AGP Mr.P.K.Shukla, but so far, no reply has been filed. However, Mr.Shukla, under instructions from the officers of the Police Department who are present in the Court, has stated that in case the petitioner Union holds the demonstration with Dharna as a mark of protest at the place mentioned in the application dated 5th April 2000, without the use of Loud Speaker, the authorities will have no objection provided a peaceful demonstration and Dharna is held without any violence and without breaking the law and order. Learned Counsel for the petitioner has no objection if the permission is granted to hold the peaceful demonstration and Dharna without the use of Loud Speaker on 5th May 2000 at the place mentioned in the application dated 5th April 2000. Ordered accordingly. The permission letter shall be issued and handed over to the petitioner Union by tomorrow, i.e. 3rd May 2000. This Special Civil Application is allowed in part as above and the Rule is made absolute accordingly. Direct service is permitted.

(M.R. Calla, J.)

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